

§410.215 Duration of entitlement; parent, brother, or sister.

(a) parent, brother, or sister is entitled to benefits beginning with the month all the conditions of entitlement described in §410.214 are met.

(b) The last month for which such parent is entitled to benefits is the month before the month in which the parent dies.

(c) The last month for which such sister is entitled to benefits is the month before the month in which any of the following events occurs:

(1) She dies;

(2)(i) She marries or remarries; or

(ii) If already married, she receives support in any amount from her spouse.

(d) The last month for which such brother is entitled to benefits is the month before the month in which any of the following events first occurs:

(1) He dies;

(2)(i) He marries or remarries; or

(ii) If already married, he receives support in any amount from his spouse;

(3) He attains age 18 and,

(i) Is not under a disability at that time, and

(ii) Is not a student (see §410.370(c)) during any part of the month in which he attains age 18;

(4) If his entitlement is based on his status as a student, the earlier of:

(i) The first month during no part of which he is a student; or

(ii) The month in which he attains age 23 and is not under a disability at that time;

(5) If his entitlement is based on disability, the first month in no part of which such individual is under a disability.

[37 FR 20636, Sept. 30, 1972]

§410.216 "Good cause" for delayed filing of proof of support.

(a) *What constitutes "good cause."* *Good cause* may be found for failure to file proof of support within the 2-year period where the parent, brother, or sister establishes to the satisfaction of the Administration that such failure to file was due to:

(1) Circumstances beyond the individual's control, such as extended illness, mental or physical incapacity, or communication difficulties; or

(2) Incorrect or incomplete information furnished the individual by the Administration; or

(3) Efforts by the individual to secure supporting evidence without a realization that such evidence could be submitted after filing proof of support; or

(4) Unusual or unavoidable circumstances, the nature of which demonstrate that the individual could not reasonably be expected to have been aware of the need to file timely the proof of support.

(b) *What does not constitute "good cause."* *Good cause* for failure to file timely such proof of support does not exist when there is evidence of record in the Administration that the individual was informed that he should file within the initial 2-year period and he failed to do so through negligence or intent not to file.

[37 FR 20637, Sept. 30, 1972]

§410.219 Filing a claim under State workmen's compensation law; when filing such claim shall be considered futile.

(a) A claimant for benefits under this part must file a claim under the applicable State workmen's compensation law prior to a final decision on his claim for benefits under this part (see §410.227(c)) except where the filing of a claim under such applicable State workmen's compensation law would clearly be futile.

(b) The Administration shall determine that the filing of such a claim would clearly be futile when:

(1) The period within which such a claim may be filed under such law has expired; or

(2) Pneumoconiosis as defined in §410.110(o) is not compensable under such law; or

(3) The maximum amount of compensation or the maximum number of compensation payments allowable under such law has already been paid; or

(4) The claimant does not meet one or more conditions of eligibility for workmen's compensation payments under applicable State law; or

(5) In any other situation the claimant establishes to the satisfaction of the Administration that the filing of a claim on account of pneumoconiosis

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would result as a matter of law in a denial of his claim for compensation under such law.

(c) To be considered to have complied with the statutory requirement for filing a claim under the applicable State workmen's compensation law, a claimant for benefits under this part must diligently prosecute such State claim.

(d) Where, but for the failure to file a claim under the applicable State workmen's compensation law, an individual's claim for benefits under this part would be allowed, the Administration shall notify the individual in writing of the need to file such State claim as a prerequisite to such allowance. Such claim, when filed within 30 days of the date such notice is mailed to the individual, will be considered to have been filed timely.

(e) Where, on the other hand, a claim has not been filed under the applicable State workmen's compensation law, and the Administration determines that a claim for benefits under this part would be disallowed even if such a State claim were filed, the Administration shall make such determination as may be necessary for the adjudication of the individual's claim for benefits under this part pursuant to § 410.610.

[36 FR 23752, Dec. 14, 1971; 36 FR 24214, Dec. 22, 1971. Redesignated at 37 FR 20636, Sept. 30, 1972]

§ 410.220 Claim for benefits; definitions.

For purposes of this part:

(a) *Claim defined.* The term *claim* means a writing asserting a right to benefits by an individual, or by a proper party on his behalf as defined in § 410.222, which writing is filed with the Administration in accordance with the regulations in this subpart.

(b) *Application defined.* The term *application* refers only to a writing on a form prescribed in § 410.221.

(c) *Claimant defined.* The term *claimant* refers to the individual who has filed a claim for benefits on his own behalf, or on whose behalf a proper party as defined in § 410.222 has filed a claim.

(d) *Applicant defined.* The term *applicant* refers to the individual who has filed an application on his own behalf, or on behalf of another, for benefits.

(e) *Execution of claim defined.* The term *to execute a claim* means to complete and sign an application (but, for an exception, see § 410.234). Irrespective of who may have prepared or completed the application, it is considered to have been executed by or on behalf of the claimant when it is signed by him or by an individual authorized to do so on his behalf (see § 410.222).

(f) *Provisions with respect to claims applicable with respect to requests.* The provisions of §§ 410.222 through 410.234 (relating to the preparation, execution, or filing of a claim for benefits) are applicable to the preparation, execution, and filing of a written request required under this part, e.g., a request to be selected as representative payee (see § 410.581 *et seq.*), a request for separate payment of an augmentation (see § 410.511), a request for reconsideration (see § 410.622), etc. In such cases, the term *claimant* as used therein refers to the individual filing the request on his own behalf or the individual on whose behalf such request is filed.

[36 FR 23752, Dec. 14, 1971, as amended at 37 FR 20637, Sept. 30, 1972]

§ 410.221 Prescribed application and request forms.

(a) Claims shall be made as provided in this subpart on such application forms and in accordance with such instructions (provided thereon or attached thereto) as are prescribed by the Administration.

(b) The application forms used by the public to file claims for benefits under part B of title IV of the Act are SSA-46 (application for benefits under the Federal Coal Mine Health and Safety Act of 1969 (coal miner's claim of total disability)), SSA-47 (application for benefits under the Federal Coal Mine Health and Safety Act of 1969 (widow's claim)), SSA-48 (application for benefits under the Black Lung Benefits Act of 1972 (child's claim)), and SSA-49 (application for benefits under the Black Lung Act of 1972 (parent's, brother's, or sister's claim)).

(c) The form used by an individual to request that such individual be selected as a representative payee or by a dependent to request that payment be certified to him separately is SSA-50 (Request to be Selected as Payee).